IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

WP(C).No. 1134 of 2006(S)

OA.501/2003 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. UNION TERRITORY OF LAKSHADWEEP,
REPRESENTED BY ITS ADMINISTRATOR, U.T.L.,KAVARATTI

2. THE PORT OFFICER,
DEPARTMENT OF PORT, U.T.L., KAVARATTI.

BY ADV. SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN

RESPONDENTS:

K. MOHAMMED HASSAN,
KUNHALI HOUSE, EDACHERY, ANDROTH ISLAND,
UNION TERRITORY OF LAKSHADWEEP.

BY ADV. SRI.P.K.IBRAHIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/03/2007 ALONG WITH WPC NO.3143 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).1134/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORIGINAL APPLICATION NO.501 OF 2003 FILED BY THE RESPONDENT, ALONG WITH ANNEXURES.

EXT.P2: COPY OF THE REPLY STATEMENT FILED BY THESE PETITIONERS, ALONG WITH ANNEXURES.

EXT.P3: COPY OF THE REJOINDER FILED BY THE RESPONDENT ALONG WITH ANNEXURES.

EXT.P4: COPY OF THE ORDER PASSED BY THE CAT, ERNAKULAM BENCH IN O.A.NO.501 OF 2003 DATED 8.12.2005.

EXT.P5: COPY OF THE CIRCULAR, F.NO.12/103-90- SERVICES DATED 26.11.1990 ISSUED BY THE ADMINISTRATOR, UTL.

RESPONDENT'S EXHIBITS:

EXT.R1(A): COPY OF THE REQUISITION DATED 10.11.1998 ISSUED BY THE 2ND PETITIONER.

EXT.R1(B): COPY OF THE PROCEEDINGS OF THE INTERVIEW BOARD CONSTITUTED FOR THE SELECTION OF LASCARS.

EXT.R1(C): COPY OF THE O.M.NO.22011/2/(D79-ESTT) DATED 8.2.1982 ISSUED BY THE GOVERNMENT OF INDIA, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS.

EXT.R1(D): COPY OF THE NOTIFICATION DATED 11.4.2001 APPEARED IN THE LAKSHADWEEP TIMES.

EXT.R1(E): COPY OF THE OFFICE ORDER F.NO.1/20/98-PORT(G-ESTT) DATED 6.7.2002 ISSUED BY THE 2ND PETITIONER.

EXT.R1(F): COPY OF THE COMMUNICATION DATED 19.7.2002 FROM THE RESPONDENT TO THE 2ND PETITIONER.

EXT.R1(G): COPY OF THE OFFICE MEMORANDUM NO.F.NO.1/20/98-PORT DATED 22.10.2002 ISSUED BY THE 2ND PETITIONER.

EXT.R1(H): COPY OF THE ORDER IN O.A.NO.10/03 DATED 7.1.2003 ISSUED BY THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

EXT.R1(I): COPY OF THE ORDER NO.F.NO.1/5/2003-PORT DATED 5.3.2003 ISSUED BY THE 1ST PETITIONER.

W.P.(C).1134/2006

EXT.R1(J): COPY OF THE REVISED PROCEEDINGS OF THE INTERVIEW BOARD CONSTITUTED FOR THE SELECTION OF LASCARS.

EXT.R1(K): COPY OF THE COMMON JUDGMENT IN O.A.NO.179/05 AND O.A.528/05 DATED 10.11.2005 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM.

EXT.R1(L): COPY OF THE COMMON JUDGMENT IN W.P.(C).34513/05 DATED 12.12.2005 OF THIS HON'BLE COURT.

/TRUE COPY/

J.B. KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NOS.1134 OF 2006

&

3143 OF 2006 (S)

Dated this the 27th day of March, 2007

JUDGMENT

KOSHY,J.

Two applicants in O.A.No.501/2003 have questioned the award passed by the Central Administrative Tribunal by filing W.P.(C). No.3143/2006 and the same award in O.A.No.501/2003 was challenged by the Lakshadweep Administrator (respondent in O.A.No.501/2003) by filing W.P.(C). 1134/2006 in so far as Tribunal granted relief to one of the applicants. Three applicants approached the C.A.T. contending that they are entitled to be appointed for the post of Lascars. Annexure A1 was the proceedings of Interview Board constituted for the selection of Lascars. The persons were called for an interview after they passed the trade test. Annexure A1 proceedings of the Interview Board reads

as follows:

> "There are six notified vacancies. However, on verification it is found that 10 anticipated vacancies are also available due to promotion of lascars into drivers etc. Thus there will be 16 posts available for appointment. Therefore according to the performance of the interview 16 candidates are ranked as per their merit. First six candidates are recommended against the six notified vacancies and the remaining 10 candidates are recommended for the anticipatory vacancies.
>
> 1. Shri.T.K.Syed Koya Thekkukunninamel, Agatti.
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> 2. Shri.A.P.Athham Aynepura, Kavaratti.
>
> 3. Shri.P.S.Kunhi Koya Puthiyasurambi, Kadmat.
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> 4. Shri.Mohammed Thuthathaifanuge,Minicoy.
>
> 5. Shri.Basheer Ballyaillam,Kiltan.
>
> 6. Shri.N.C.Abdullatheef Nangathiyathachetta, Amini.
>
> 7. Shri.Ahamed Koya Cherriyolapura,Chetlet.
>
> 8. Shri.Mohameed Hassan Kunnali,Androth.
>
> 9. Shri.T.P.Kinanath Thithiyappada,Kalpani.
>
> 10. Shri.Ibrahim Dathabigothi,Minicoy.
>
> 11. Shri.Cheriya Koya Chachalakapada,Agatti.

12. Shri.V.Jalaluddin Varakkaroda,Kavaratti.

13. Shri.Hajul Akbar Kunumpura,Chetlet.

14. Shri.Ismail Malayampura,Kiltan.

15. Shri.P.Mohammed KhaleelPuthiyeth,Androth

16. Shri.Mohammed Puthiyasurambi,Amini.

WAITING LIST

1. Shri.P.P.Farook Pullipura,Kavaratti.

2. Shri.Sharafuddin Biriyammada,Kadmat.

Thereafter appointment order was issued to the 1st applicant (1st respondent) in W.P.(C).1134/2006 as can be seen from Annexure A3 whereby he was offered appointment as Group D post of Boat Lascar on a pay scale of Rs.2550 - 55 - 2660 - 60 - 3200 plus usual allowances. That was accepted by the 1st respondent. However, by Annexure A5, his appointment was cancelled stating that notified vacancies was only six and no notification was given for filling up of anticipated vacancies. All the three applicants approached the Tribunal stating that since as per

Annexure A1 proceedings, anticipatory vacancies were to be filled up and they were in the selection list and they had the required qualification and they passed the trade test. Tribunal found that merely they were ranked in the selection list they will not get the right for appointment. Another list was published by Annexure A6. Respondent No.1 in W.P.(C).No.1134/2006 was given offer of appointment. It was accepted also by 1st respondent. Considering the fact that he was fully qualified, Tribunal held that offer of appointment to him should be implemented especially considering Annexure A1 proceedings covering anticipated vacancies. At the same time since there is no fundamental right for appointment and as list was cancelled, it is not the obligation for the Department to give further offer of appointment to anybody. Therefore petitioners in W.P.(C).3143/2006 cannot compel the Department to issue offer of appointment. Considering the facts and circumstances of the case, we are of the opinion that Tribunal's order is just and reasonable based on

facts and no interference is required in the above order under Article 227 of the Constitution of India and hence both writ petitions are dismissed.

J.B.KOSHY,JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

prp

J.B. KOSHY AND
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) No./2007

Judgment

Dated:21st March, 2007